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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/935,639

08/24/2001

Takashi Nakamura

040894-5699

1378

9629

7590

08/30/2004

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EXAMINER

RAO, SHRINIVAS H

ART UNIT

PAPER NUMBER

2814

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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09/935 639

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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082504

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

A Notice of Allowance was mailed in this case on January 05, 2004. Applicants' filed an IDS on the same date as they paid the issue fees namely March 17, 2004. The IDS filed on March 17, 2004 lists one journal article, namely "A novel stack capacitor cell for high Density FeRAM compatible with CMOS logic" by Takahisha HAYASHI et al., 2000 IEEE". As acknowledged by the Applicants' since the IDS was filed after the mailing of notice of Allowance and filed simultaneously with the payment of issue fee, Applicants' must comply with the provisions of 37 CFR 1.97 and 1.98. Herein Applicants' have failed to provide a statement required under 37 CFR 1.97 (e) (1) or (2), namely either the listed reference was cited by a foreign patent office within three months of the filing of the IDS or that no item of information contained in the information disclosure statement was known to any individual designated under Section 1.56© more than three months prior to the filing of the IDS.

Therefore the IDS filed on March 17, 2004 will not be considered.

SK
08/25/04
LONG PHAM
PRIMARY EXAMINER

- (1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
 - (2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
 - (3) Before the mailing of a first Office action on the merits; or
 - (4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.
- (c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:
- (1) The statement specified in paragraph (e) of this section; or
 - (2) The fee set forth in § 1.17(p).
- (d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:
- (1) The statement specified in paragraph (e) of this section; and
 - (2) The fee set forth in § 1.17(p).
- (e) A statement under this section must state either:
- (1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
 - (2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.
- (f) No extensions of time for filing an information disclosure statement are permitted under § 1.136. If a *bona fide* attempt is made to comply with § 1.98, but part of the required content is inadvertently omitted, additional time may be given to enable full compliance.
- (g) An information disclosure statement filed in accordance with section shall not be construed as a representation that a search has been made.
- (h) The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).
- (i) If an information disclosure statement does not comply with either this section or § 1.98, it will be placed in the file but will not be considered by the Office.

[48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (d) revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; paras. (a)- (d) revised, 61 FR 42790, Aug. 19, 1996, effective